

1
2
3
4
5

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

10 IDA BELLE ROLAIN,
11 Plaintiff,
12 v.
13 WAL-MART STORES
14 Defendants.

Case No. 2:11-CV-01900-KJD-PAL

ORDER

16 Presently before the Court is Plaintiff's Motion to Remand (#7). Defendants filed a response
17 in opposition (#14) to which Plaintiff replied (#16). Construing Plaintiff's *pro se* pleading liberally
18 as the Court must, it appears that Plaintiff is alleging that Defendants improperly removed this action
19 to federal court.

20 A case may be removed to federal court within thirty (30) days upon receipt of the initial
21 pleading by the defendant. See 28 U.S.C. § 1446b. However, if it is not apparent from the face of
22 the initial pleading that the case is removable, the case may be removed within thirty (30) days after
23 the defendant ascertains the case is removable. See id. Further, if the basis for removal is diversity
24 jurisdiction pursuant to 28 U.S.C. Section 1332, the Notice of Removal must be filed within a one
25 (1) year of the filing of the Complaint. See id. The defendant in a removal action has the burden of
26 proving all jurisdictional facts and establishing that removal is proper. See, e.g., Gaus v. Miles, Inc.,

1 980 F.2d 564, 566 (9th Cir. 1992); Industrial Tectonics, 912 F.2d at 1092; Abada v. Charles Schwab
2 & Co.

3 In this action, Defendants have met their burden in establishing that removal was appropriate.
4 Plaintiff provided discovery to Defendants no earlier than October 28, 2011, the date which
5 Plaintiff's signature was notarized on the documents, which demonstrated that the amount in
6 controversy exceeded \$75,000.00, the jurisdictional amount. Defendants filed their Petition for
7 Removal (#1) on November 25, 2011, which is less than thirty days after Defendants were able to
8 ascertain the amount in controversy exceeded the jurisdictional amount.

9 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion to Remand (#7) is
10 **DENIED.**

11 DATED this 22nd day of August 2012.

12
13
14 

15 Kent J. Dawson
United States District Judge

16
17
18
19
20
21
22
23
24
25
26